FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.9624 OF 2004

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.M.L.Patil for petitioner.

Mr.R.M. Patane, AGP for res.Nos.1, 2 & 3.

CORAM : H.L GOKHALE &
R.S.MOHITE, JJ.
DATED : 16th December 2004

P.C. :

1. Heard Mr.Patil in support of this petition. Mr.Patane, Assistant Government Pleader appears for the respondent Nos.1, 2 and 3.

2. The petitioner is a widow of one Gajanan Parshuram Chitale. She has filed a Special Civil Suit bearing No.58 of 2002 in the Court of Civil Judge, Senior Division, Ratnagiri against respondent Nos.4 to 9 and others for partition and separate possession of her 1/4th

share in the joint family property. It so happened that during the pendency of this suit, certain properties of the family came to be acquired by the Special Land Acquisition Officer, Chiplun, District Ratnagiri. On coming to know about the proceedings before the Land Acquisition Officer, the petitioner moved an application in the Civil Court that her share in the amounts to be determined be deposited in the Civil Court and that the Land Acquisition Officer be restrained by an order of injunction from making payment to the aforesaid respondents. The learned Civil Judge, Senior Division, Ratnagiri, took the view that it would be proper for the petitioner to move the Special Land Acquisition Officer for the said relief. It is for this reason that he did not entertain that application below Exhibit-74.

3. In view of this order passed on 6th August 2003 by the Civil Judge, Senior Division, Ratnagiri, the petitioner moved an application before the Special Land Acquisition Officer on 22nd August 2003. She followed it up with reminders from time to time. On her application, a notice was issued to respondent Nos.4 to 8 by the Special Land Acquisition Officer calling the parties to attend on 20th September 2003. No decision was being taken on that application and, therefore, this petition was filed for appropriate orders on 27th October 2004.

4. After filing of this petition, the petitioner received a letter at the residence in Miraj, District Sangli on 3rd November 2004. That letter dated 20th October 2004 informed her that since the application made to the Civil Court was rejected on

6th August 2003 the amount of compensation had been paid to Smt.Yamuna Vinayak Chitale and others. In view of this subsequent information, a Civil Application has been filed bearing No.3022 of 2004 seeking appropriate amendments to the writ petition. Mr.Patil has also handed over a further letter dated 29th November 2004 from the Special Land Acquisition Officer, Chiplun, which records that the amounts released were to the tune of Rs.6,24,154/-.

5. Mr.Patil has rightly criticized the Special Land Acquisition Officer for not deciding the application which was very much pending before him and proceeding to release the amounts to the concerned respondents. The fact, however, remains that now those amounts have been released and because of this situation, in

our view, the appropriate remedy for the petitioner will be to move another application in pending civil suit for appropriate reliefs including attachment before judgment or any other injunction as the petitioner may deem fit. Considering the fact that the petitioner had taken appropriate steps in pursuance of the order passed by the Civil Court, we expect the Civil Court to decide such an application, when made, at the earliest.

6. Before we part with the order, we would like to record that the Special Land Acquisition Officer was expected to decide the application which was pending before him before releasing the amounts to the contesting respondents. To say the least, the manner in which he has proceeded, is most unfair and improper.

7. In view of the aforesaid observations, we dispose of this petition.

8. Since this petition is being disposed of, no separate order is passed on Civil Application No.3022 of 2004 and accordingly, the same stands disposed of as infructuous.

9. Authenticated copy of this order be provided to the parties.

(H.L.GOKHALE, J.)

(R.S.MOHITE, J.)